

**Summary of Actions Taken Related to Recommendations Included in
OPEGA's 2006 Report on Economic Development Programs in Maine
(based on OPEGA follow up as of April 2014)**

- 123rd Legislature passed LD 1163 (P.L. 2007, Chap. 434). This bill:
 - Required DECD Commissioner to develop a plan for comprehensive evaluation of state investments in economic development by 11-1-07;
 - Required DECD Commissioner to submit an annual comprehensive evaluation of state investments in economic development to Gov. and Legislature beginning in Feb. 2009. Evaluation was to establish and report on outcome measures, be performed by independent reviewers and include recommendations.
 - Required recipients of state economic development funding to collect, maintain and provide data as requested by DECD to assist in preparing the comprehensive evaluation.
 - Established the Maine Economic Development Evaluation Fund as a non-lapsing Special Revenue Account to be used to pay for the annual comprehensive evaluation. Payments to the fund were to come from assessments made on agencies or private entities receiving \$250,000 or more in GF or general obligation bonds for economic development. The assessment was supposed to be for 0.8% of the amount of economic development funding the entity was to receive. However, there was an error in the law that was passed as it only required an assessment of 0.08%. Maximum payments to the fund of \$150,000 in any fiscal year.
 - Established additional requirements for entities receiving economic development support in 5 MRSA §13070-O.
 - Required DECD to propose language amending the statutory definition of “economic development incentive” to provide more comprehensive guidance.
 - Required BRED Committee to seek proposals from DECD, MDF and others to fulfill the role of State’s economic development portfolio coordinator and authorized BRED to submit legislation to create such a role.
- 124th Legislature passed LD 1468 (P.L. 2009, Chap.337). This bill:
 - Clarified the obligation of recipients of economic development funding to collect, maintain and provide data as requested by DECD to assist in the conduct of the independent evaluation, and that the information available from the evaluation would be used in the DECD Commissioner’s report to the Governor and Legislature on the operation of the economic delivery system.
 - Increased the maximum payments to the Maine Economic Development Evaluation Fund to \$200,000 in any fiscal year.
 - Established the definition of an “economic development incentive”.
 - Eliminated some economic development data reporting requirements for recipients of funding and DECD with the expectation that the annual independent evaluations of economic development programs would substitute for this reporting.
- As a result of LDs 1163 and 1468:
 - The State now has an operational definition of what constitutes an economic development incentive program. (5 MRSA §13070-J.1.D)
 - An inventory of State programs that meet that definition was developed by the Maine Development Foundation in January 2008 and included basic information on each program.

- A plan, design and funding mechanism for regular independent evaluation of the portfolio of economic development programs was established. DECD contracted for an independent evaluation of a portfolio of economic development programs (identified in an inventory prepared by Maine Development Foundation) and how they are contributing, as a portfolio, to the State's economic development goals. That evaluation report was delivered to the Legislature in March 2009. The independent evaluations were meant to be an annual event. However, because of the error in statute on the 0.08% assessments not enough funding was set aside and the annual independent evaluation did not recur until 2013.
- The evaluation report (Maine Comprehensive Economic Development Evaluation 2008) resulting from that first independent evaluation did contain some recommendations for improving the effectiveness of the portfolio of programs but did not specifically identify opportunities to reduce costs and improve efficiencies. The report also did not contain analysis that would allow Legislature to determine whether specific individual programs were strong or weak contributors although it appears there may have been some data gathered by the evaluators that would be helpful in identifying programs that warrant a more detailed review.
- Legislature re-affirmed the intent for DECD to be the coordinator of economic development programs State-wide and intended to monitor how that role is being fulfilled.
- In 2010, the Legislature passed Resolve Chapter 199 directing the DAFS Commissioner to convene a working group to develop recommendations for how Maine might undertake a more rigorous review of tax expenditure programs. The DAFS working group issued a report to AFA in Nov. 2010 on ways to increase transparency and assess impact of tax expenditure programs such as BETR. To OPEGA's knowledge there has been no specific action or legislation to implement the recommendations in that report.
- Title 5 §1666 requires that the Governor's Biennial Budget include tax expenditures and language asking the Legislature whether it wishes to continue funding for each tax expenditure. Title 36, Chapter 10 assigns certain authorities and duties for oversight and review of tax expenditures to the Taxation Committee.
- During the 2nd regular session of the 124th Legislature (2010), the Taxation Committee established a subcommittee to review about 10 tax expenditures – most, if not all, of which were economic development programs. The subcommittee reported that some of those incentives may be meeting the intended objectives but that a better understanding of objectives and a stronger basis for evaluating tax expenditures was needed. There were no formal recommendations coming from the full Taxation Committee as a result of this review.
- In the 1st regular session of the 125th Legislature (2011), the Taxation Committee submitted a bill (LD 1730) to create a process for the Taxation Committee to review proposed new or expanded tax expenditures. That Committee ultimately voted that bill out as ONTP with a plan to instead pursue a Joint Rule that would effectively establish the process envisioned in the bill. It does not appear that Joint Rule was ever established.
- In the 2nd regular session of the 125th Legislature, LD 323 was passed and became Public Law 2011, Chapter 563. This law corrected the error in assessments for the Maine Economic Development Evaluation Fund, established that independent comprehensive evaluations would occur on biennial basis beginning February 2014, and specified certain economic development incentive programs and outcome measures that had to be addressed in the independent evaluations. DECD recently reports that despite the correction in assessments and the change to a biennial evaluation, this funding mechanism still does not provide nearly enough resources to cover the cost of the evaluation. According to DECD, there is currently only \$12,400 of funding from that mechanism available for the next Comprehensive Economic

Development Evaluation that is due to be completed and reported on in 2016. At this time, DECD is forgoing the planning for that evaluation due to lack of funding.

- LD 1437 passed in the 125th Legislature which required, to the extent funding was possible, the Maine Economic Growth Council (under the Maine Development Foundation) to develop the Maine Prosperity Action Plan – a comprehensive and specific action for a sustainable State economy with concrete proposals for legislative action. The bill required this effort to be supported by outside funding. Although no funding was obtained, the Growth Council did undertake a portion of the effort and planned to submit a report to the Legislature’s LCRED Committee. OPEGA has not followed up on whether this report was actually produced and submitted.
- In mid-2011, the GOC of the 125th Legislature directed OPEGA to draft legislation for the GOC to consider introducing that would implement any recommendations from the 2006 report that had not yet been satisfactorily addressed. OPEGA has delayed in preparing draft legislation due to the considerable effort that will be involved and also due desire to wait for the outcomes of continuing efforts by DECD and the Legislature that would potentially impact what the draft legislation would need to include. OPEGA is now seeking to move forward on this effort and is re-engaging the GOC in the discussion of what actions should be taken.
- In early 2013, DECD issued a Request for Proposal for a second Comprehensive Economic Development Evaluation (CEDE) and contracted with a firm to do that evaluation (first evaluation was done in 2008). In preparation for developing that RFP, DECD contracted Maine Development Foundation to prepare an updated inventory of Economic Development Programs. The updated inventory prepared by MDF was submitted June 2013 and is the State’s most current inventory. OPEGA provided input to DECD in developing the scope of the evaluation to be included in the RFP to help ensure that evaluation results would better meet the needs and expectations of the Legislature in areas where the first CEDE had fallen short.
- In early 2013, the GOC tasked OPEGA with a special project to develop a framework for on-going legislative review and evaluation of tax expenditure programs – some of which are also considered economic development programs. OPEGA categorized and analyzed the existing tax expenditure programs and outlined a possible framework for on-going review that specified the review objectives, what entity would perform reviews and how results would be conveyed and considered by legislators. Concurrent with OPEGA’s work on this special project, the Legislature established a special Tax Expenditure Task Force to convene during the 2013 legislative Interim (PL 2013 Chapter 368, Part S). The Task Force was directed to address several items including those that were in the scope of OPEGA’s Special Project, and the legislation specified OPEGA would assist in staffing and providing information to the Task Force. OPEGA shared the results of its categorization and analysis of tax expenditures with the Task Force and sought the Task Force’s input on key elements in designing a reasonable, efficient and effective process for on-going legislative review and evaluation. Incorporating the input received, OPEGA developed an outline of a proposed process to serve as a foundation for draft legislation to implement the process and shared this outline with the Task Force. The Task Force included the outline of the proposed process in its final report, which was submitted to the Appropriations and Financial Affairs (AFA) Committee in December 2013.
- The results of the second CEDE were submitted to the Legislature in two reports in 2014. The consultant made a number of recommendations that can be grouped as follows: Most Critical Recommended Changes (3 recommendations), Recommended Changes to Specific Programs (11 recommendations) and Additional Suggested Changes (6 recommendations). The 3 recommendations categorized as Most Critical relate to issues that remain unaddressed from OPEGA’s 2006 report and which hamper the State’s ability to adequately coordinate, oversee and evaluate these programs.

According to DECD, there are currently no efforts in that Department, or other efforts they are aware of within the Executive of Legislative Branches, to consider the recommendations made and take action as deemed appropriate. DECD indicated that the Department is not necessarily supportive of all the consultant's recommendations and/or that there may be additional relevant information the consultant was not aware of when preparing the recommendations.

- In the second regular session of the 126th Legislature (2014), the Legislature passed LD 1463. This bill directed OPEGA to develop a more detailed proposal on how an on-going legislative review process for tax expenditure programs - proposed through the report of the 2013 Task Expenditure Task Force - could be implemented, including specifics on which expenditures would receive full evaluations, what the evaluation parameters would be, and what resources would be required. A gubernatorial veto of the bill was overturned and it was enacted as Resolves 2013 Chapter 115.
- OPEGA's project to address Resolves 2013 Chapter 115 was called Special Project: Tax Expenditure Programs Phase II. OPEGA presented the proposal required by the Resolve to the GOC and the Taxation Committee in March 2015 and it is currently being considered by the Taxation Committee in conjunction with LD 941, An Act to Improve Tax Expenditure Transparency and Accountability. In the proposal, OPEGA notes that a number of the tax expenditures are programs currently subject to the statutorily required evaluations of research and development programs and economic development programs that DECD contracts for. Should the Legislature implement the proposed tax expenditure review process, consideration should be given to whether there should then be changes to DECD's evaluation requirements.